IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMIRA M. HUSSEIN,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	No. 00-CV-4905
v.	:	
	:	
GENUARDI'S FAMILY MARKETS,	:	
	:	
Defendant.	:	

MEMORANDUM

BUCKWALTER, J. January 15, 2002

Plaintiff brings this action against Defendant alleging unlawful discrimination against her due to her national origin and religion, as well as retaliation, in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e et seq. Presently before the Court is Defendant's Motion for Summary Judgment pursuant to Rule 56(c). For the reasons stated below, Defendant's Motion is granted.

I. FACTS

Plaintiff, a Muslim of Egyptian descent, began her employment with Defendant, a regional chain supermarket, at its Audubon, Pennsylvania store on August 19, 1999. Plaintiff was hired as a part-time deli clerk, with responsibilities that included assisting customers, preparing food and the deli salad bar, and cleaning. Part-time employees such as Plaintiff are typically scheduled to work twenty to twenty-five hours per week. At the Audubon store,

Plaintiff was supervised by Chris Peterson ("Peterson"), the back-up deli manager, and Gale Rowley ("Rowley"), the assistant manager - food service.

The first few months of Plaintiff's employment were apparently relatively uneventful. Plaintiff often worked more than the customary twenty-five hours per week due to a shortage of staff in the deli department. In addition, Plaintiff would often refuse to take her lunches and breaks despite Defendant's policy that requires employees to do so. On an unspecified date during this period, Plaintiff alleges she declined a lunchtime offer from Peterson and her co-workers to join them in eating ham. Plaintiff explained to them that as a Muslim, she was not permitted to eat ham. Peterson allegedly responded that she had not realized Plaintiff was a Muslim.

A few months into her employment, and after the ham incident, Plaintiff's relationship with her co-workers and supervisors began to deteriorate. On October 2nd, Plaintiff was counseled by Peterson, Rowley, and store manager Barbara Hettel ("Hettel") regarding her failure to get along with her co-workers. Then, on October 9th, a disagreement between Plaintiff and Peterson arose regarding instructions that Peterson had given to another employee regarding the breakdown of the salad bar. These instructions differed from those Peterson had given to Plaintiff. Peterson alleges she gave these new instructions – to leave the hot soup out later in the evening – to Plaintiff's co-worker simply because the weather was getting colder, and customers tend to purchase more hot soup in the evenings. Plaintiff refused to accept this explanation and, according to Defendant, began yelling at Peterson. At that point, Plaintiff, Peterson and Rowley met to discuss the situation. According to Defendant, Peterson advised Plaintiff if she needed to calm down, she should go home. Plaintiff went home. The next day, October 10th, Plaintiff

sought to discuss the incident with Rowley, who again explained to Plaintiff the business reasons for the change in instructions given to her co-worker. Rowley also instructed Plaintiff to submit any additional concerns she had in writing so they could be addressed.

Within a few days, Plaintiff submitted a letter to Rowley. The letter raised the same concerns about the differing salad bar instructions, and additionally contended that Peterson had forced her to go home that night. The letter concluded that this conduct was discrimination and harassment directed at her. On October 15th, Rowley, Hettel, and associate store manager George Holowis met with Plaintiff. According to Defendant, the business reasons for the change of instructions regarding the salad bar were *again* explained to Plaintiff. Plaintiff was further instructed to take her breaks and lunches as per Defendant's policy. During this meeting, Plaintiff stated that she wanted to withdraw her complaints. However, concerned that Plaintiff was not satisfied, Hettel advised Plaintiff that she should meet with Joe Kania ("Kania"), Defendant's human resources specialist.

On October 19th, Plaintiff met with Kania. Although Plaintiff stated to Kania that the issue regarding the salad bar had been resolved, according to Plaintiff, she brought it up so that he would know about it. Plaintiff then raised a variety of other work-related issues. She again raised the issue of taking her breaks and lunches. Kania advised her, *again*, that she must take her breaks and lunches per company policy. Plaintiff complained that her working hours were being decreased. Kania advised her that normally, a part-time employee works only twenty to twenty-five hours per week, and that initially, her hours had been high for a part-time employee because of a shortage of other staff. Kania told her that many deli employees' hours

were being reduced as a result of new staff placed there. Kania then followed up and confirmed that Plaintiff's scheduled hours were consistent with part-time status.

According to Defendant, Plaintiff also requested a department transfer at this October 19th meeting in order to obtain additional hours of employment. (In her deposition, Plaintiff denied requesting a department transfer at this meeting.) Again, according to Defendant, Kania advised Plaintiff that even if she transferred to another department, she would not be assigned additional hours, since the other departments did not have such a need. Therefore, Plaintiff agreed to maintain her status as a deli employee.

Finally, at this meeting, Plaintiff alleged for the first time that at some point Rowley had fallen to her knees and mocked her. In her deposition, Plaintiff testified that Rowley mocked her by stating that "you are so good, you don't make any mistakes." In a memorandum concerning their meeting, however, Kania recorded Plaintiff as alleging that Rowley told her that "you are God, I should pray to you." In any case, after reviewing the surveillance videotapes at the Audubon store and interviewing Rowley and Peterson, Kania concluded that there was no truth to this accusation.

Nonetheless, Plaintiff's concerns regarding her hours continued, and Plaintiff, her husband (a former employee of Defendant), Hettel, and Kania met again on November 2nd, 1999. At this meeting, after yet *another* explanation regarding the reasons why her hours had been reduced, according to Defendant, Plaintiff stated that she could not continue to work in her present department. Kania then offered her the following options: (1) transfer to another department within the store, which he explained was not practical since there were no positions available with additional hours; (2) transfer to another store location where she could have a

fresh start; (3) voluntary resignation; or (4) she could be released, since she was still with her 90-day probationary period for new employees. Plaintiff chose to be transferred to Defendant's store located in Chesterbrook, Pennsylvania. All parties agreed that this was in Plaintiff's best interest. Kania told Plaintiff he would not mention to anyone at the Chesterbrook store why Plaintiff was being transferred.

On November 8th, Plaintiff was transferred to the Chesterbrook store, into a position with the same responsibilities and pay as her position in the Audubon store. At the new location, Plaintiff's supervisors were Shirley Harkins ("Harkins"), the back-up deli manager, Pat Seneko ("Seneko"), the assistant manager - food production, and Greg McCabe ("McCabe"), the store manager. Plaintiff was pleased with the transfer, and gave Kania and Hettel a pen and a calendar to show her appreciation.

However, similar frictions soon emerged between Plaintiff and her new co-workers. On December 1st, Harkins and McCabe had to counsel Plaintiff regarding her inability to get along with her new co-workers. Specifically, the meeting addressed complaints from her fellow employees that she bumped into them while using the meat slicer and yelled at them in front of customers, as well as her unwillingness to participate in necessary training for her position. Two days later, on December 3rd, another employee accused Plaintiff of intentionally bumping into her numerous times while the employee was working with the meat slicer. As a result, McCabe asked Plaintiff to go home for the day. At that point, Plaintiff told him that she quit, and left the store. Also at this time, McCabe was informed by another employee that two days beforehand, after Plaintiff's counseling session, Plaintiff had pointed a deli knife at her and advised her that the knife could make everyone get along.

Later that day, Plaintiff's husband came into the store and discussed the situation with McCabe and Seneko. Plaintiff's husband advised them that Plaintiff did not really want to quit, and asked that the employee action notice being prepared in response to the day's events be changed so as to be less severe. McCabe agreed to modify the notice, but would not allow Plaintiff to return to the deli department due to his safety concerns. It was decided that Plaintiff would be moved to a different position at the store. However, Plaintiff never returned to work. The next day, she called in and requested a two to three week leave of absence, which McCabe granted. On that same day, unbeknownst to Defendant, Plaintiff applied for employment at a different supermarket. On or about December 12th, Plaintiff was hired by Redner's Warehouse Markets for approximately the same hourly salary she had been making as an employee of Defendant, but on a full-time, rather than part-time, basis. Plaintiff was subsequently observed working at her new job by an employee of Defendant. On December 18th, Defendant issued an employee action notice terminating Plaintiff for job abandonment.

II. LEGAL STANDARD

A motion for summary judgment shall be granted where all of the evidence demonstrates "that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). A genuine issue of material fact exists when "a reasonable jury could return a verdict for the nonmoving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). "Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment." Id.

If the moving party establishes the absence of the genuine issue of material fact, the burden shifts to the nonmoving party to "do more than simply show that there is some metaphysical doubt as to the material facts." Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986).

When considering a motion for summary judgment, a court must view all inferences in a light most favorable to the nonmoving party. See United States v. Diebold, Inc., 369 U.S. 654, 655 (1962). The nonmoving party, however, cannot "rely merely upon bare assertions, conclusory allegations or suspicions" to support its claim. Fireman's Ins. Co. v. Du Fresne, 676 F.2d 965, 969 (3d Cir. 1982). To the contrary, a mere scintilla of evidence in support of the nonmoving party's position will not suffice; there must be evidence on which a jury could reasonably find for the nonmovant. Liberty Lobby, 477 U.S. at 252. Therefore, it is plain that "Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). In such a situation, "[t]he moving party is 'entitled to a judgment as a matter of law' because the non-moving party has failed to make a sufficient showing on an essential element of her case with respect to which she has the burden of proof." Id. at 323 (quoting Fed. R. Civ. P. 56(c)).

III. DISCUSSION

A. National Original/Religious Discrimination Under Title VII

1. Disparate Treatment

Title VII prohibits employment discrimination based on, inter alia, an individual employee's national origin or religion. 42 U.S.C. § 2000e-2(a). Since Plaintiff in this case seeks to establish disparate treatment discrimination through indirect evidence, the Court follows the evidentiary framework first set forth by the Supreme Court in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973) and subsequently refined in Texas Dep't of Cmty. Affairs v. Burdine, 450 U.S. 248 (1981). Under this framework, an employee's demonstration of a prima facie case creates an inference of unlawful discrimination. The burden of production then shifts to the employer, who can dispel the inference by articulating a legitimate, nondiscriminatory reason for its actions. If the employer meets this burden, the employee must then prove by a preponderance of the evidence that the articulated reasons are a pretext for discrimination. Duffy v. Paper Magic Group, Inc., 265 F.3d 163, 167 n.1 (3d Cir. 2001). Summary judgment is appropriate on behalf of the employer if the employee fails to meet its burden at either the prima facie or pretext stage in the framework.

To establish a prima facie case of discrimination based on her national origin, plaintiff must show: (1) that she belongs to a protected class; (2) that she was qualified for her position; and (3) that she was terminated or otherwise suffered an adverse employment action, while other employees not in the protected class were retained or did not suffer the same action. See Jalil v. Avdel Corp., 873 F.2d 701, 708 (3d Cir. 1989), cert. denied, 493 U.S. 1023 (1990). Allegations of disparate treatment on the basis of religion are subject to these same prima facie

elements, with the additional requirement that plaintiff show that she informed her employer of her religious beliefs, since an employer may well not even be aware of them. See, e.g., Geraci v. Moody-Tottrup, Int'l, 82 F.3d 578, 581 (3d Cir. 1996) (citing Protos v. Volkswagen of America, Inc., 797 F.2d 129, 133 (3d Cir.), cert. denied, 472 U.S. 972 (1986) and Beasley v. Health Care Serv. Corp., 940 F.2d 1085, 1088 (7th Cir. 1991)).

Plaintiff satisfies the first element of the prima facie case. Defendant does not dispute her contentions that she is of Egyptian descent or that she follows the Muslim faith. Furthermore, viewing the evidence in the light most favorable to Plaintiff, she informed Peterson – one of her superiors at the Audubon store – that she was a Muslim in connection with her refusal to eat ham. For the purposes of this analysis, the Court also assumes that Plaintiff fulfills the second element as well. There is little evidence that, at the time Plaintiff alleges that the discrimination against her began, Defendant considered Plaintiff unqualified or failing to perform up to its standards, although she may not have been performing perfectly.[1]

Plaintiff also establishes the third and final element of the prima facie case because as a formal matter, she was terminated from her position at the Chesterbrook store. Plaintiff does not raise this rather obvious argument in her brief. Instead, she points to a host of other events that she claims constitute adverse employment actions against her. However, none of these actions meets the required legal bar. Since under the McDonnell Douglas framework, Defendant need not offer legitimate, nondiscriminatory reasons for any of its actions that

[1] To the extent that Defendant contends that Plaintiff was not qualified for her position because new problems with her performance subsequently arose, or old ones got more serious, these issues are more appropriately considered by a court in the second stage of a McDonnell Douglas framework, as evidence of the legitimate, nondiscriminatory reasons Defendant may have had for any of its actions. As shown infra, however, this Court's analysis need not reach these issues, because Defendant does not offer them as reasons for which Plaintiff was ultimately terminated, the only adverse employment action taken against Plaintiff.

ultimately do *not* constitute adverse employment actions against Plaintiff, the Court will explain why the allegations raised by Plaintiff do not rise to this level.

Employer conduct constitutes an "adverse employment action" under Title VII only if it "alters the employee's 'compensation, terms, conditions, or privileges of employment,' deprives him or her of 'employment opportunities,' or 'adversely affect[s] his [or her] status as an employee.' Robinson v. City of Pittsburgh, 120 F.3d 1286, 1300 (3d Cir. 1997) (citing 42 U.S.C. § 2000e-2(a)). Consequently, "'not everything that makes an employee unhappy' qualifies ... for '[o]therwise, minor and even trivial employment actions that an irritable, chip-on-the-shoulder employee did not like would form the basis of a [claim].'" Id. (quoting Smart v. Ball State Univ., 89 F.3d 437, 441 (7th Cir. 1996)).

First, Plaintiff relies on a series of vague allegations that, after disclosure of her Muslim faith, her superiors and co-workers began treating her differently. She claims that "they started dealing with her badly," stopped giving her instructions, and treated her in a humiliating manner. These vague allegations are unsupported by specific facts – or any support in the record – that detail how the "terms, conditions or privileges" of her employment were materially altered. To the extent that Plaintiff is complaining of simple "unnecessary derogatory comments" and the like, such do not qualify as adverse employment actions. Id.

Second, Plaintiff alleges that the dispute regarding the salad bar instructions was an adverse employment action. However, even if the evidence is viewed in the light most favorable to Plaintiff, nothing in the record suggests that the matter was of concern to anyone *except* Plaintiff – regardless of whether or why differing instructions were given to different employees regarding the salad bar breakdown. Defendant has offered a persuasive legitimate

business reason as to why the instructions might have changed – to recognize an increased demand for hot soup as the evenings turned colder – but the Court's analysis need not get that far. To the extent the controversy was brought to management's attention at all, it was Plaintiff who did so; the incident certainly did not alter the "terms, conditions or privileges" of her employment. In short, the matter appears to have been much ado about nothing.

Third, Plaintiff points to a decrease in her scheduled working hours at the Audubon store as an adverse employment action. Again, although Defendant offers a legitimate business reason why *all* the deli employees had their hours slightly reduced during this time – the arrival of additional staff for that department – the Court need not get that far in its analysis. Plaintiff was hired as a part-time employee, and her scheduled hours were *always well above* the range of hours offered to part-time employees: twenty to twenty-five hours per week. Furthermore, Plaintiff stated in her deposition that she would have been satisfied if her scheduled hours had remained between thirty to thirty-seven hours per week, and her scheduled hours did in fact remain within that range.[2] Therefore, under these circumstances, any slight reduction in Plaintiff's working hours that occurred cannot be said to have affected the "terms, conditions or privileges" of her part-time employment.

Fourth, Plaintiff contends that the alleged incident when Rowley mocked her constituted an adverse employment action. Viewing the incident in the light most favorable to Plaintiff, this incident does not rise to such a level either. Allegedly, Rowley fell to her knees and told Plaintiff either "you are so good, you don't make any mistakes" or "you are God, I

[2] Plaintiff was scheduled to work 45.5 hours during the week ending October 9th; 31 hours during the week ending October 16; 30.5 hours during the week ending October 23rd; 37 hours during the week ending October 30th; and 34 hours during the week ending November 6th.

should pray to you." Regardless of which allegation is accurate, the incident appears to be little more than an isolated derogatory comment made against her (without, incidentally, any reference to her national origin or religion) that does not qualify as adverse employment action. Id.

Fifth, Plaintiff states that her transfer to the Chesterbrook store was an adverse employment action. However, the record indicates that Plaintiff was provided essentially the *same* job with the *same* responsibilities at the*same* pay at this new location. There is no evidence that this new location was particularly inconvenient for or placed a burden on Plaintiff. Even viewing the evidence in the light most favorable to Plaintiff, an essentially lateral transfer such as this does not equal an adverse employment action. Williams v. Bristol-Myers Squibb Co., 85 F.3d 270, 274 (7th Cir. 1996). This is true even if, as Plaintiff boldly argues in her brief with scant supportive evidence in the record, Defendant forced Plaintiff to accept this transfer of location against her will.

Lastly, at the end of her brief, Plaintiff alleges that she was constructively discharged from her position at the Chesterbrook store. Plaintiff makes this assertion rather baldly, without setting out the legal standard for such a claim and barely attempting to establish why the facts warrant it. As explained supra, this Court accepts that Plaintiff's formal termination fulfills the final element of her prima facie case of disparate treatment discrimination. However, a claim of constructive discharge requires a finding "that the employer knowingly permitted conditions of discrimination in employment so intolerable that a reasonable person subject to them would resign." Goss v. Exxon Office Sys. Co., 747 F.2d 885, 888 (3d Cir. 1984).

The record in this case is devoid of evidence from which a reasonable factfinder could conclude that the conditions at the Chesterbrook store resulted in Plaintiff's constructive discharge. There is no evidence that her co-workers in that store ever exhibited any discriminatory animus toward her as a Muslim or individual of Egyptian descent, or were even aware of her national origin or religion. There is no evidence that Plaintiff ever complained to her superiors about discriminatory treatment at the Chesterbrook store, and, therefore, that Defendant ever tolerated such discrimination. In fact, Plaintiff herself admitted in her deposition that her complaints of discrimination related solely to her employment at the Audubon store. Finally, Plaintiff apparently withdrew her resignation, which is inconsistent with a claim of constructive discharge.[3]

In summary, then, Plaintiff demonstrates the final element of the prima facie case of disparate treatment because, technically, she was terminated from her position at the Chesterbrook store. However, the other allegations set forth by Plaintiff do not rise to the level of adverse employment actions.

Under McDonnell Douglas, the burden of production now shifts to the employer, who can dispel the inference of illegal discrimination by articulating a legitimate, nondiscriminatory reason for its action. In this case, Defendant meets its burden by demonstrating that Plaintiff was terminated from her position for job abandonment. The record is not disputed that after requesting, and receiving, permission to take a leave of absence from her job with Defendant, Plaintiff sought out and obtained full-time employment at another

[3] To the extent Plaintiff is now asserting that she quit and never took back her resignation, she was obviously never terminated, and therefore suffered no adverse employment action at all. Therefore, summary judgment would be appropriate as to her claim for disparate treatment on this alternative basis.

supermarket. She apparently did not keep in touch with Defendant nor ever indicated a willingness to return to work there. In response, Plaintiff has not – and due to the clarity of the record, really cannot – offer any evidence from which a reasonable factfinder could conclude that Defendant's proffered reasons for formally terminating her are pretextual. As a practical matter, Plaintiff simply made good on her earlier vow to quit. Therefore, summary judgment is appropriate as to Plaintiff's disparate treatment claim, since Plaintiff cannot meet her burden at the pretext stage of the McDonnell Douglas framework.

2. Hostile Work Environment

Also the end of her brief, and in the similarly causal manner in which she leveled her constructive discharge allegation, Plaintiff for the first time claims that she was subject to a hostile work environment while at the Chesterbrook store. Plaintiff states that the environment was caused by her fellow employees making false complaints regarding her conduct there, such as the accusation regarding her brandishing a knife.

In order to establish a hostile work environment claim under Title VII, a plaintiff must show that (1) she suffered intentional discrimination because of her religion or national origin; (2) the discrimination was pervasive and regular; (3) it detrimentally affected her; (4) it would have detrimentally affected a reasonable person of the same protected class in her position; and (5) there is a basis for vicarious liability. See Cardenas v. Massey, 269 F.3d 251 (3d Cir. 2001) (citations omitted). "As the Supreme Court has emphasized: whether an environment is 'hostile' or 'abusive' can be determined only by looking at the circumstances. These may include the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably

interferes with an employee's work performance." Aman v. Cort Furniture Rental Corp., 85 F.3d 1074, 1081 (3d Cir. 1996).

Plaintiff cannot establish at least three elements of a prima facie case of hostile work environment. First, and most significantly, there is no evidence in the record that the charges made by her co-workers, even if untrue, constituted "intentional discrimination due to her religion or national origin." As described supra, no evidence exists that her co-workers in the Chesterbrook store ever exhibited any discriminatory animus toward her as an individual of Egyptian descent or a Muslim, or were even aware of her national origin or religion.

Second, Plaintiff fails prong three, since the record is devoid of the necessary evidence that the charges leveled against her were so "pervasive and regular" as to constitute a hostile work environment. When she left the Chesterbrook store on December 3rd – as it turned out, for the last time as an employee – the record indicates that she was aware of at least one prior complaint against her by a co-worker (the subject of her December 1st counseling session) and the allegation made against her on December 3rd that she had bumped into a co-worker. Approximately two such allegations do not qualify as "pervasive and regular." Furthermore, at no time during her employment was Plaintiff aware about the allegation against her regarding her waving of the knife, and as such cannot form the basis for a claim of a hostile work environment.

Third, Plaintiff fails the fifth required prong, as there is no basis for vicarious liability here. In order to find Defendant liable for a hostile work environment created by its non-management employees, the employer must have actual or constructive knowledge of the situation and fail to take prompt and adequate remedial action. See Andrews v. City of Philadelphia, 895 F.2d 1469, 1486 (3d Cir. 1990). In this case, there is no evidence that Plaintiff

ever complained to any of her superiors about a hostile work environment at the Chesterbrook store or of any discriminatory treatment by her co-workers there. This makes sense, since Plaintiff admitted in her deposition that her complaints of discrimination related solely to her employment at the Audubon store. Therefore, Plaintiff cannot make out a claim for a hostile work environment under Title VII.

B. Retaliation Under Title VII

Plaintiff also asserts that many of these same matters – her reduced hours, transfer to the Chesterbrook store, and the alleged hostile work environment and constructive discharge from that store – constitute illegal retaliation against her. Under Title VII, an employer may not discriminate against an employee because "he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter." 42 U.S.C. § 2000e3-(a). To establish a prima facie case of retaliation under Title VII, a plaintiff must show that: (1) he or she engaged in a protected employee activity; (2) the employer took an adverse employment action after or contemporaneous with the protected activity; and (3) a causal link exists between the protected activity and the adverse action. Robinson v. City of Pittsburgh, 120 F.3d 1286, 1300 (3d Cir. 1997).

As for the first prong of the prima facie case, there is no doubt that Plaintiff engaged in protected activity when she submitted her letter to Rowley charging that Peterson had discriminated against her. Furthermore, she satisfies the second prong, as she can demonstrate that an adverse employment action was taken against her due to her termination.[4] However,

[4] For the reasons discussed supra, none of Plaintiff's other allegations rises to the level of an adverse employment action or constitute a hostile work environment.

Plaintiff cannot satisfy the third prong, because she cannot establish any causal link between the protected activity and this adverse action.

Plaintiff may demonstrate a retaliatory causal link in a number of ways: a close temporal proximity between the protected activity and the adverse employment action, evidence of intervening antagonism or retaliatory animus, or other circumstantial evidence that supports a causal inference, such as inconsistent or pretextual reasons given by the defendant for the termination. See, e.g., Weston v. Pennsylvania, 251 F.3d 420, 431-433 (3d Cir. 2001); Farrell v. Planters Lifesavers Co., 206 F.3d 271, 279-286 (3d Cir. 2000). In this case, Plaintiff engaged in her protected activity in mid-October and was not terminated until about two months later, so the temporal proximity is not particularly suggestive of retaliation. The period between the protected activity and the termination was not marked by antagonism or retaliatory animus between Defendant's management and Plaintiff, but instead by a joint effort to give Plaintiff a fresh start in a new working environment. No circumstantial evidence in the record provides credence for a claim that Plaintiff's termination was in retaliation for her complaints of discrimination. In fact, the circumstantial evidence – or lack thereof – points strongly away from such a claim. For example, there is no evidence that the management at the Chesterbrook store even *knew* about her protected activity. Furthermore, Defendant has consistently maintained that Plaintiff was terminated for abandoning her job because she did not return to work and had found full-time employment elsewhere, facts not disputed by Plaintiff.

IV. CONCLUSION

Plaintiff demonstrates a prima facie case of Title VII disparate treatment discrimination but cannot offer any evidence from which a reasonable factfinder could find that Defendant's articulated reason for ultimately terminating her from her position – job abandonment – was pretextual. Furthermore, the evidence in the record does not support a prima facie case of a discriminatory hostile work environment or retaliation under Title VII. Therefore, summary judgment is granted in favor of Defendant. An appropriate order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMIRA M. HUSSEIN,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	No. 00-CV-4905
v.	:	
	:	
GENUARDI'S FAMILY MARKETS,	:	
	:	
Defendant.	:	

ORDER

AND NOW, this 15th day of January 2002, upon consideration of Defendant's Motion for Summary Judgment (Docket No. 16), Plaintiff's response thereto (Docket No. 17), and Defendant's Reply (Docket No. 18), it is hereby **ORDERED** that Defendant's Motion is **GRANTED**.

Judgment is entered in favor of Defendant Genuardi's Family Markets and against Plaintiff Amira M. Hussein.

This case is **CLOSED.**

BY THE COURT:

RONALD L. BUCKWALTER, J.